

SAN BENITO COUNTY PLANNING COMMISSION

April 7, 2010

Minutes

COMMISSIONERS: Richard Bettencourt; Jeff Culler; Dan DeVries;
Gordon Machado; and Robert Scattini

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques; Senior Planner (SP)
Lissette Knight; Associate Planner (AP) Michael Kelly; Assistant County
Counsel (ACC) Barbara Thompson; Public Works Engineer (PWE) Art
Bliss; Fire Marshal Jim Dellamonica and Clerk Trish Maderis.

Chair Scattini called the meeting to order at 6:02 PM as he led the pledge of allegiance to the flag. Clerk Maderis noted all Commissioners present.

DIRECTOR'S REPORT

DoP Henriques reported on the following items:

March 23, 2010 Board Meeting:

- Revised Housing Element Update process and Board setting the affordable housing fee at \$0.00 until the final Ordinance is adopted.
- Transfer of funds from CWSD to Housing & Economic Development for the down payment assistance program

April 6, 2010 Board Meeting:

- Quarterly report on General Plan Update
- Economic Development and Commercial Zone study within County
- County roads re-opening in Clear Creek
- Santana Ranch Draft EIR circulation

PUBLIC COMMENT

Chair Scattini opened and closed the Public Comment period as no one wished to address the Commission on items not appearing on the Agenda.

Commissioner Bettencourt wished to acknowledge and offer the Commission's condolences to Assistant Director Byron Turner for the recent loss of his father.

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of March 17, 2010

Commissioner Machado moved to approve Consent Agenda Items No. 1, 2 and 3; Commissioner Culler offered a second to the motion which passed unanimously.

CONTINUED ~ PUBLIC HEARING:

4. **Minor Subdivision No. 1221-08** REQUEST: The applicant proposes to subdivide an 18.12 acre parcel into 3 new parcels. APPLICANT/OWNER: Allan Nicholson. LOCATION: Cannon Road, Aromas, CA. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Michael Krausie (mkrausie@cosb.us) (continued from 3-17-10)

SP Knight presented the staff report, providing a hand out of changes to the Conditions of Approval for the project. SP Knight explained the changes to Conditions 9, 17 and 20 and concluded her presentation with a recommendation for approval of the project.

After some discussion from the Commission and clarification by staff, Chair Scattini opened the Public Hearing.

Anne Hall, San Benito Engineering appeared on behalf of the applicant and noted the applicant accepts and agrees to all conditions as provided in the revised staff report.

With no other speakers, Chair Scattini closed the Public Hearing. Commissioner Machado moved for approval as corrected for Conditions No. 9, 17 and 20; Commissioner Bettencourt offered a second to the motion which passed unanimously.

DoP Henriques noted for the record, the decision was final unless appealed within 10 days to the Board of Supervisors.

CONDITIONS OF APPROVAL:

Standard Conditions for Minor Subdivision:

1. **Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]

2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and conditions of approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **Compliance Documentation:** Prior to recordation of the Parcel Map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
4. **Assessment:** Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the Final Parcel Map is recorded. [Planning, Assessor]
5. **Recordation:** The applicant shall submit a Parcel Map to the County and the Parcel Map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The Tentative Parcel Map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
6. **Easements:** The Parcel Map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
7. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$2,060.25– Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). In addition, should the notice not be filed by December 31, 2010, the applicant shall be subject to increased Department of Fish and Game fees for the next year. [Planning]
8. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the Parcel Map all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the Parcel Map. [Planning]
9. **County Service Area:** *Prior to recordation of the final map, the applicant shall comply with the San Benito County Code in regards to County Service Areas. [Planning]*
10. **Improvement Plans:** Prior to recordation of the parcel map, the applicant shall submit for approval by the County Public Works Department, Improvement Plans for the proposed subdivision. [Public Works]

- 11. Construction Hours:** A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, Construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.”[Planning and Building]
- 12. Park Fees:** Prior to recordation of the Parcel Map the applicant shall pay in-lieu fees for park dedication and improvements. [Section 17-59 of Ordinance 617 and Section 25 of Ordinance 479] [Planning and Public Works]
Note: Park in-lieu fees fluctuate based upon the ENR cost index figures. The fee required will be calculated prior to recordation of the Parcel Map.
- 13. Mitigation Monitoring:** Prior to the recordation of the Parcel Map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).[Planning, County Counsel]
- 14. Exterior Lighting:** A note shall be placed on an additional sheet to the Parcel Map that states: “All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance #748 (along with the requirements of Zone 2 regulations set within Ordinance 748). Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture.” [Planning and Building]
- 15. Air Quality:** A note shall be included in the Improvement Plans to minimize particulate emissions and shall state: “The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of three times a day. If the dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading. In addition, all grading activities during periods of high winds (over 15 mph) are prohibited.” [Planning]
- 16. Archeological:** Prior to recordation of the Parcel Map a note shall be placed on an additional sheet to the Parcel Map that states:
Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
1. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 2. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals
 3. Notify the sheriff-coroner of the discovery if human and-or questionable remains have been discovered. The Planning Department Director shall also be notified.

Subject to the legal process, grant all duly authorized representatives of the coroner and the Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 5B of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code.

17. Management and Conservation of Woodlands: The owner/applicant shall comply with the following:

- a. All oak trees to be removed prior to recordation of the Parcel Map shall comply with Public Resources Section 21083.4. As part of the Improvement Plans all trees to be removed shall be identified and the location of the newly planted trees will be located on the plans.
- b. Prior to recordation of the Parcel Map, the owner/applicant shall place a note on an additional sheet to the Parcel Map to ensure any future tree removal by prospective property owners will be managed. The note shall state: *“Removal of any oak trees requires compliance to Public Resources Section 21083.4. Compliance to this section shall be demonstrated to the San Benito County Planning Department.”*

18. Seismic: All planned improvements shall be designed to resist seismic shaking in accordance with current California Building Code requirements. [Building and Planning]

19. Geotechnical Report Recommendations: Prior to recordation of the parcel map, the recommendation of the geotechnical investigation prepared July 14, 2008, project number SH-10663-SB shall be incorporated into the design of the Improvement Plans. A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the Parcel Map referencing the aforementioned report(s) for future reference by potential property owners.

20. Public Works Conditions:

- A. The applicant, prior to recordation of the Parcel Map, shall make the following irrevocable offers of dedication to county and public for public use:
 - Half of 60 foot right-of-way along the entire property frontage on Cannon Road with pertinent slope easements as outlined below.
 - Full 40 foot right-of-way for the proposed Street A with pertinent slope easements as outlined below.
 - In addition to the above minimal dedications, slope easements or a blanket slope easement shall be provided for all areas within parcels 1, 2 and 3 where roadway slopes may extend onto private property as a result of roadway preparation and grading.
 - The applicant/applicants engineer shall show approximate limits of slope easements, hence proposed roadway grades and drainage ditch shall be shown on the Parcel Map.
 - The applicant/applicants engineer shall show existing base rock driveway section against the proposed driveway. Cut or fill slopes shall be based on the recommendations of the Soils Engineer Report which will be required as the basis for the design of improvements for this subdivision.

- B. Prior to recordation of the Parcel Map, the applicant shall bond for or make the following roadway improvements:
- Half of 24 foot AC on 34 foot road bed along the entire property frontage on Cannon Road.
 - Full 20 foot all-weather road for the proposed Street A (fire access road - driveway) with a standard turnaround facility where the common driveway terminates.
 - ~~A combination of partial roadway improvement construction and bonding may be established for a portion of the proposed parcel 3 frontage, but design of full frontage improvements shall be required as a part of the subsequently required Improvement Plans.~~ **Applicant shall maintain (or provide alternative) access to the existing driveway as shown on the Tentative Map.**
- C. The Parcel Map shall show dedications and easements for access, utilities, and drainage.
- D. Applicant shall also include, as a part of the requisite Improvement Plans, ~~proposed or feasible building pads and access (with profile from the “Street A” fire access road) for Parcels 2 & 3, and further define a feasible driveway or fire access road to a potential building pad on Parcel 1.)~~ **the applicant’s engineer shall provide a statement of feasible access to potential building pads, as shown on the Tentative Map.**
- E. The applicant shall comply with County Drainage Standards and provide drainage and erosion control details for the project. Included in these will be drainage calculations and construction details for either retention or detention pond(s) for the increase of storm water runoff resulting from increased impermeable surfaces created as part of this project. Details and direction of flows of drainage swales and grades shall also be included. Outlet of the proposed pond(s) and downstream routing shall also be reflected in the plan. All drainage improvements must be installed or bonded for prior to recordation of the Parcel Map, or securing of any building permit and shall be completed in accordance with conditions of approval or improvement agreements.
- F. As part of the submission of Improvement Plan for this project, the design of any structure or improvement shall be based on the results and recommendations of the soil investigation, hence, applicant shall be required to submit a letter prepared by a Registered Geotechnical Engineer, that indicates his review and a statement that recommendations of an adequate Soil Investigation Report have been included.
- G. Prior to recordation of the Parcel Map, the applicant shall submit a list of proposed street names for the unnamed future road “Street A” common driveway to the County’s Planning Department for review and approval by County’s Communications Department for road name approval.
- H. Prior to commencement of any improvements associated with this project the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right of way.

- I. Prior to the recordation of the Parcel Map or acceptance of finished work, which will be necessary for the release of an alternate Bond, one set of reproducible “As Built” or “Record Drawings” shall be prepared by the applicant’s engineer and delivered to the Public Works Department.
 - J. Prior to or concurrent with approval of a Parcel Map, the applicant shall prepare and establish a road maintenance agreement or form a homeowner’s association, for the purposes of street sweeping and maintenance of road, drainage and other improvements.
 - K. Following completion and acceptance of the required improvements, applicant shall be required to provide a warranty/security to San Benito County through Public Works and in an amount of not less than 10% of the estimated cost of the construction of the improvements to guarantee the improvements against defective work or labor done or defective materials used, throughout a one (1) year warranty period.
 - L. Applicant shall submit to the Department of Public Works for review and approval, required engineered improvement plans.
- 21. Fire:** A note shall be placed on the Parcel Map stating:
- Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2007 California Fire Code, or if subsequently amended, the standards set forth in the latest editions of the California Fire Code, Public Resources Code 4290 and 4291, Ordinances of the Aromas Tri- County Fire District and other related codes as they apply to a project of this type and size.
 - CFC Section 501.4 Fire access and water supply for fire protection shall be in place prior to any construction.
 - Fire Hydrants shall be steamer type.
- 22. Mosquito Control:** Prior to recordation of the Parcel Map, the applicant shall contact the San Benito County Department of Agriculture and set up an inspection for the proposed detention pond as it relates to mosquito control. A note of determined mosquito abatement practices for the subdivision shall be reviewed and approved by the Planning Director and shall be placed on an additional sheet to the Parcel Map. [Department of Agriculture & Planning]
- 23. Water Softeners:** A note shall be placed on the subdivision Improvement Plans and on an additional sheet to the Parcel Map that states: “The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District”. [Planning]
- 24. Inclusionary Housing:** Prior to recordation of the Parcel Map the applicant/owner shall pay Inclusionary Housing fees. Developments of 3-4 units shall pay a fractional fee. A third-unit/lot development shall pay 3/5ths of the required fee for the third lots. $[3/5 \times 0 \times 1 \text{ (lot three)} = \$0 \text{ total}]$ [Chapter 21.03 of the San Benito County Code]
- 25. Overburden:** Any overburden generated by the project shall be distributed evenly along the natural contours of the site at a depth no greater than twelve (12) inches. [Planning]

26. Mineral Resources: A note shall be placed on the Parcel Map stating: As required by the County's General Plan, Open Space and Conservation Element, Policy 20 (Significant Mineral Resources), Action 4, land immediately adjacent to the project site is zoned mineral resources area(s) as shown on San Benito County zoning maps and designated by the State of California as such (MRZ). The intent of the Mineral Resource Area District, as set forth in the San Benito County Code is to protect and manage natural resources that could be lost due to the encroachment of incompatible land uses, while still allowing low-intensity interim uses. Mineral extraction activities may occur in these designated areas in the future.

PUBLIC HEARING:

5. Minor Subdivision No. 1215-08: REQUEST: The applicant proposes to subdivide a 21.85 acre parcel identified as Assessor's parcel number 016-150-077 into four, 5 acre or greater parcels. APPLICANT/OWNER: Mark Wright LOCATION: Comstock Rd., Hollister. ZONING/GENERAL PLAN: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Michael Krausie (mkrausie@cosb.us)

SP Knight presented the staff report and concluded her presentation with a recommendation for approval of the project.

Anne Hall, San Benito Engineering appeared on behalf of the applicant and noted the applicant accepts and agrees to all conditions as provided in the staff report. Mrs. Hall requested that language on Condition No. 9 be amended.

With no other speakers, Chair Scattini closed the Public Hearing. After discussion between the Commissioners and staff, Commissioner Bettencourt moved for approval as corrected for Conditions No. 9, Commissioner Machado offered a second to the motion which passed unanimously.

DoP Henriques noted for the record, the decision was final unless appealed within 10 days to the Board of Supervisors.

CONDITIONS OF APPROVAL:

Standard Conditions for Minor Subdivision:

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]

2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **Compliance Documentation:** Prior to recordation of the Parcel Map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
4. **Assessment:** Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the Final Parcel Map is recorded. [Planning, Assessor]
5. **Recordation:** The applicant shall submit a Parcel Map to the County and the Parcel Map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The Tentative Parcel Map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
6. **Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
7. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$2,043 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]
8. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the Parcel Map all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the Parcel Map. [Planning]
9. **County Service Area:** *Prior to recordation of the final map, the applicant shall comply with the San Benito County Code in regards to County Service Areas. [Planning]*
10. **Improvement Plans:** Prior to recordation of the parcel map, the applicant shall submit for approval by the County Public Works Department, improvement plans for the proposed subdivision. [Public Works]

- 11. Construction Hours:** A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, Construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.”[Planning and Building]
- 12. Park Fees:** Prior to recordation of the Parcel Map the applicant shall pay in-lieu fees for park dedication and improvements. [Section 17-59 of Ordinance 617 and Section 25 of Ordinance 479] [Planning and Public Works]
NOTE: Park in-lieu fees fluctuate based upon the ENR cost index figures. The fee required will be calculated prior to recordation of the Parcel Map.
- 13. Mitigation Monitoring:** Prior to the recordation of the Parcel Map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).[Planning, County Counsel]
- 14. Exterior Lighting:** A note shall be placed on the Parcel Map stating: “All exterior lighting shall be reviewed to insure that fixtures are shielded to reduce this impact to an insignificant level. New lighting for additional residential buildings would add nighttime glare to the project site and surrounding properties. This project is located within the Zone 3 lighting district. As a condition of approval, a note shall be placed on the parcel map which states that all exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Additionally, all fixtures shall comply with County Ordinance 748.”[Mitigation Measure #1] [Planning and Building]
- 15. Air Quality:** A note shall be included in the improvement plans to minimize particulate emissions and shall state: “The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of three times a day. If the dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading. In addition, all grading activities during periods of high winds (over 15 mph) are prohibited.” [Planning]
- 16. Grading:** The Parcel Map shall show a grading exclusionary zone in compliance with Section 19.17.005 of the County Code and a note shall be placed on the Parcel Map stating: "No grading activity shall take place within 50 feet (measured horizontally) from the top of a bank of a stream, creek, river or within 50 feet of a wetland or a body of water."
- 17. Cultural Resource Evaluation:** A note shall be placed on the Parcel Map stating: “The recommendation(s) of the cultural resource evaluation performed by Archaeological Resource Management shall be adhered to for all construction resulting in disturbance to the ground located on the project site.”

- 18. Archeological:** Prior to recordation of the Parcel Map a note shall be placed on an additional sheet to the Parcel Map that states: Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
- a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals
 - c. Notify the sheriff-coroner of the discovery if human and-or questionable remains have been discovered. The Planning Department Director shall also be notified.
 - d. Subject to the legal process, grant all duly authorized representatives of the coroner and the Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code.[Planning]
- 19. Management and Conservation of Woodlands:** Prior to the recordation of the Parcel Map, the applicant shall place a note on an additional sheet to the Parcel Map that states: “If the property owner desires to cut down a tree on his/her property they must obtain approval from the Planning and Building Department to ensure compliance to the County and State regulations for tree protection.” [Planning]
- Public Works Conditions:**
- 20.** Prior to recordation of the Parcel Map, the applicant shall make the following irrevocable offers of dedication:
- a. Half of 60 foot right-of- way along the entire frontage on Comstock Road;
 - b. Full 30 foot right-of-way for the proposed common driveway;
 - c. Adequate right of way for a turnaround facility at the end of the common driveway, as determined as determined by the Public Works Department.
 - d. The turn around facility shall extend beyond the property line boundary between parcel 3 and 4 to provide access to parcel 4.
- 21.** Prior to recordation of the Parcel Map, the applicant shall bond for or make the following roadway improvements:
- a. Half of 24 foot AC on 34 foot road bed along the entire property frontage on Comstock Road;
 - b. 20 foot all-weather road on parcel ‘A’, the proposed common driveway. A standard turnaround facility shall be provided where the common driveway terminates.
- 22.** Prior to recordation of the Parcel Map, the applicant shall pay fair-share contribution towards Fairview/Comstock Road intersection Improvement and Comstock Road Widening per Board of Supervisors Resolution No. 2001-101 (3 new lots x \$16,449.78 per lot = \$49, 349.34). (See Section 23.17.003 of the San Benito County Code)
- 23.** The Parcel Map shall show easements for access, utilities, and drainage.
- 24.** Prior to recordation of the Parcel Map and pursuant to Section 23.07.003(a) of the San Benito County Code, the applicant must submit a list of proposed street names for the unnamed common driveway to the County communication department for road name approval.

25. As per County Code Chapter 19.17, as part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide drainage and erosion control details for the project. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. Details and directions of flows of drainage swales and grades shall also be included. All drainage improvement must be installed or bonded for prior to recordation of the Parcel Map.
26. Prior to recordation of the parcel map, the recommendation of the Geotechnical Investigation prepared July 20, 2007, project number SH10773-SC and Geologic fault study, project number SH-10773-GA shall be incorporated into the design of the improvement plans. A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the parcel map referencing the aforementioned report(s) for future reference by potential property owners.
27. Pursuant to San Benito County Code, prior to commencement of any work being performed within the County right-of-way, the applicant shall obtain a Public Works Encroachment Permit.
28. Prior to the recordation of the Parcel Map or before release of alternate Bond, one set of "As Built" Improvement Plans shall be prepared by the applicant's engineer and delivered to the Public Works Department.
29. Prior to the recordation of the Parcel Map, the applicant shall prepare a road maintenance agreement or form a homeowner's association, for the purposes of street sweeping and maintenance of road, drainage and/or other common area improvements. The applicant shall be responsible for annexation into or initiating the formation of the County Service Area for the project through LAFCO. The applicant shall also submit documentation to the Public Works Department that demonstrates that annexation or formation has occurred prior to the recordation of the Parcel Map.

Environmental Health:

30. Prior to the recordation of the Parcel Map, a local small water system permit shall be obtained and the applicant shall install or bond for all components of the water system as required by the Department of Public Works.
31. A note shall be placed on an additional sheet to the parcel map and deed restriction(s) shall be recorded that states: "Results of the water quality analysis revealed that secondary standards for iron exceeds the maximum contaminate level."

Fire Conditions:

32. Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2007 California Fire Code, or if subsequently amended, the standards set forth in the latest editions of the California Fire Code, Public Resources Code 4290 and 4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size.
33. A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the 2007 California Fire Code."

San Benito County Water District:

- 34. Prior to recordation of the Parcel Map, the applicant shall work in cooperation with the San Benito County Water District to determine how the existing entitlement to San Felipe water will be affected by the proposed subdivision, and weather extension of San Felipe infrastructure and service will be required.
- 35. Prior to recordation of the Parcel Map, the applicant shall work in cooperation with the San Benito County Water District to ensure that the District’s facilities are accurately located, necessary easements are recorded and indicated, and any potential impacts from construction activities are minimized.
- 36. In order to utilize the San Felipe Distribution System for a fire suppression water supply, the property owner shall complete an “Agreement for Supplemental Fire Protection” with the SBCWD (for each parcel) and shall provide evidence of such an agreement to the County prior to Final Map approval.
- 37. Utilization of San Felipe Water for domestic use is not permitted without the approval of SBCWD. The use of San Felipe Water for landscaping may be allowed. Unauthorized connection to San Felipe Water for domestic consumption (drinking, cooking, bathing, and oral hygiene) may result in disconnection of service.

San Benito County Department of Agriculture:

- 38. **Mosquito Control:** Prior to recordation of the Parcel Map, the applicant shall contact the San Benito County Department of Agriculture and set up an inspection for the proposed detention pond as it relates to mosquito control. A note of determined mosquito abatement practices for the subdivision shall be reviewed and approved by the Planning Director and shall be placed on an additional sheet to the parcel map. [Department of Agriculture & Planning]

San Benito County Planning Department:

- 39. **Water Softeners:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: “The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District”.[Planning]
- 40. **Inclusionary Housing:** Prior to recordation of the Parcel Map the applicant/owner shall pay Inclusionary Housing fees. Developments of 3-4 units shall pay a fractional fee. A fourth-unit/lot development shall pay 4/5ths of the required fee for the third and fourth lots. [4/5 x 0 x 2 (lots three and four) = \$0 total][Chapter 21.03 of the San Benito County Code]

PUBLIC HEARING:

- 6. **Tentative Subdivision Map No. 08-77:** REQUEST: The applicant proposes to subdivide a 7.5 acre parcel into 14 new parcels and a remainder. APPLICANT/OWNER: Lynn Hilden & Rob Fowler LOCATION: Ralph’s Drive Extension, Hollister. ZONING: Single-Family Residential (R-1). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. PLANNER Lissette Knight (lknight@cosb.us)

SP Knight presented the staff report and explained the changes to Condition No. 10 and Condition No. 31 noting this condition had been added to satisfy air pollution concerns. SP Knight concluded her presentation with a recommendation for approval of the project.

After some discussion between staff and the Commission, Chair Scattini opened the Public Hearing.

Marie Mota, 3588 Airline Highway, Hollister addressed the Commission stating her concern for emergency access on Joe's Lane.

Anne Hall, San Benito Engineering appeared on behalf of the applicant and advised the applicant accepts and agrees to all conditions as provided in the staff report.

Lynn Hilden, 600 Marks Drive, Hollister; project applicant addressed the Commission and Mrs. Mota advising emergency access had been obtained through another property owned by Sunnyslope Water Co.

With no other speakers, Chair Scattini closed the Public Hearing. After discussion between the Commissioners and staff, Commissioner Culler moved for approval as revised for Condition No. 10 and Condition No. 31, Commissioner DeVries offered a second to the motion which passed unanimously.

DoP Henriques noted for the record, the decision was final unless appealed within 10 days to the Board of Supervisors.

CONDITIONS OF APPROVAL:
Standard Conditions for Major Subdivision:

1. **Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this major subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
2. **Conformity to Plan:** The development and use of the site shall conform substantially to the tentative map and conditions of approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **Compliance Documentation:** Prior to recordation of the final map, the applicant shall submit a summary response in writing to all conditions of approval within their approval notice, documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
4. **Assessment:** Prior to recordation of the final map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the final map is recorded. [Planning, Assessor]

5. **Recordation:** The applicant shall submit a final map to the County and the final map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a final map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
6. **Easements:** Prior to recordation, the final map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
7. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$2,060.25 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]
8. **Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for the habitat conservation plan financing and kit fox protection measures, the applicant shall contribute, prior to recordation of the final map, a habitat conservation plan mitigation fee of \$2100 (\$150 for each parcel that is 1 acre or less). [Planning & Department of Fish and Game]
9. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the final map, all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the final map. [Planning]
10. **County Service Area:** Prior to recordation of the final map, the applicant shall comply with the San Benito County Code in regards to County Service Areas [Planning]
11. **Improvement Plans:** Prior to recordation of the final map, the applicant shall submit for approval by the County Public Works Department, improvement plans for the proposed subdivision, and shall obtain approval by the Public Works Department by making any necessary changes. [Public Works]
12. **Mitigation Monitoring:** Prior to the recordation of the final map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).
13. **Association Formation:** Prior to the recordation of the final map, the applicant shall form or join an existing Homeowner's Association for the purposes of street lighting, street sweeping and maintenance of road, drainage, open space and landscaping improvements. The applicant shall also be required to comply with the San Benito County Code in regards to County Service Areas. [Public Works, LAFCO & Planning]
14. **Inclusionary Housing: Inclusionary Housing:** Prior to recordation of the parcel map the applicant/owner shall pay Inclusionary Housing fees. Developments of 5-20 units shall pay the full fee. For developments with 5-20 units/lots, the applicant shall pay the In-Lieu fee for each lot and/or unit created. [0 x (Number of created lots. This does not include lot one and two) (6) = \$0 total] [Chapter 21.03 of the San Benito County Code]

- 15. Park Fees:** Prior to recordation of the Parcel Map the applicant shall pay in-lieu fees for park dedication and improvements. [Section 23.15.008 of the San Benito County Code] [Planning and Public Works]

Mitigation Measures:

- 16. Lighting:** A note shall be placed on an additional sheet to the final map that states: “All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748 (along with the requirements of Zone II regulations set within Ordinance 748). Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Mitigation Measure #1]
- 17. Air Quality:** A note shall be placed on the improvement plans for the proposed subdivision which states that the following actions shall be incorporated into site improvements:
- If and when grading occurs for property improvements and/or development the owner shall:
- a. Water all graded areas at least three times daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated until dust is fully managed.
 - b. All grading activities during periods of high wind (over 15 mph) are prohibited. [Mitigation Measure #2]
- 18. Cultural Resources:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers and human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
- a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals
 - c. Notify the sheriff-coroner of the discovery if human and-or questionable remains have been discovered. The Planning Department Director shall also be notified.
- Subject to the legal process, grant all duly authorized representatives of the coroner and the Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code.) [Mitigation Measure #3]
- 19. Soils:** All recommendations made in Chapter 7.0 & Chapter 8.0 (except that the applicant may hire any licensed geotechnical firm) of the Geotechnical Engineering Report prepared by Earth Systems Pacific (File No. SH-11009-SA) shall be followed for this project. The attachments are within exhibit 3 and incorporated as referenced. [Mitigation Measure #4]

- 20. Noise:** A note shall be placed on an additional sheet to the Final Map that states: “Site Preparation, Grading & Construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction related activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.”[Mitigation Measure #5]
- 21. Traffic:** Prior to recordation of parcel map applicant shall pay fair-share contribution (312.50/lot) toward the Traffic signal at Airline Highway/Fairview benefit area. [Mitigation Measure #6]

County Fire:

- 22. Fire:** Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2007 California Fire Code, Public Resources Codes 4290 and 4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size.

San Benito County Water District:

- 23. Water Service Agreement:** Prior to recordation of the final map, the owner/applicant must obtain approval from the Sunnyslope County Water District for annexation. A water service agreement must also be obtained

Public Works:

- 24. Drainage:** Prior to recordation of the final map; and as part of the submission of the engineered improvement plans for this project, the owner/applicant shall comply with the County Drainage Standards and provide erosion control details for the project. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. All drainage improvements must be installed or bonded for prior to recordation of the final map.
- 25. Dedication:** Prior to recordation of the final map, the owner/applicant shall make the following irrevocable offers of dedication:
- a. 60 feet full road right of way for the proposed Ralph’s Drive extension. Temporary turn around facilities per the Fire Code requirements shall be provided at the end of Ralph’s Drive extension.
 - b. 60 feet full road right of way for the proposed common driveway for lots 1 to 12 with standard turn around facility
- 26. Roadway Improvements:** Prior to recordation of the final map, the owner/applicant shall bond for or make the following roadway improvements per urban standards:
- a. 40 feet AC on 42 feet roadbed for the entire length of the proposed Ralph’s Drive extension and common driveway, with curb, gutter, sidewalk and street lighting facility.
 - b. 40 feet radius AC on 48 feet radius roadbed cul-de-sac for the common driveway, with curb, gutter, sidewalk and street lighting facility.
 - c. Temporary turn around facility at the end of Ralph’s Drive extension per the Fire Code.
- 27. Communications:** Prior to recordation of the final map, the owner/applicant shall submit a list of proposed street names for the unnamed common driveway to the County Communications Department for road name and approval.

- 28. Encroachment:** Prior to the commencement of any improvements associated with this project, the owner/applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right of way.
- 29. Street Lighting:** Prior to recordation of the final map, the applicant shall submit to the County a street lighting plan for the project. Internal street lighting shall be minimized and shall comply with Section 19.31 of the San Benito County Code. The street lighting plan shall be subject to the review and approval of the County Public Works Department, and improvements specified in the plan shall be completed or bonded prior to recordation of the final map.
- 30. Benefit Areas:** Prior to recordation of the final map, the owner/applicant shall be required to pay their fair share contributions to the following benefit areas:
- a. Enterprise Drainage Basin Benefit Area (\$780/lot x 13 new lots = \$10,140)

Monterey Bay Unified Air Pollution Control Board:

- 31. MBUAPCD:** During construction of homes, all diesel-fueled commercial motor vehicles on-site shall not idle for greater than 5.0 minutes at any location; and shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of an restricted area, *except as may be expressly allowed by 13 CCR §2485.*

Chair Scattini called for a brief break at 7:03 PM. The meeting reconvened at 7:13 PM with all Commissioners and staff present.

- 7. Use Permit No. 789-99B:** REQUEST: The applicant is requesting amendments to the previously approved conditions of approval, requesting approval of an updated site plan, requesting on-site food preparation, proposing a permanent outdoor tent structure, amending the occupancy classification of the barrel room, requesting approval of the projects signage and correcting existing property violations. APPLICANT/OWNER: Frank Leal LOCATION: 300 Maranatha Dr., Hollister. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Lissette Knight (lknight@cosb.us)

SP Knight presented her staff report advising the Commission Amendment B would enable staff to work with the applicant and the applicant's engineer to operate within the approved conditions of the original Use Permit approved in 1999. SP Knight provided a hand out to the Commission on several Conditions the applicant did not agree with and explained those issues during her project presentation.

The Commission had several questions as to why some conditions were required which SP Knight explained most conditions are required by law, county code, ordinance or other permitting authorities. SP Knight further explained the Commission does not always have the authority to remove or amend some conditions.

ACC Thompson cautioned the Commission about removing Conditions contained in the staff report, advising they could not be added later without another amendment application.

Chair Scattini then opened the Public Hearing.

Matt Kelley, Kelley Engineering appeared on behalf of the applicant stating the amendment application was submitted to satisfy Planning and compliance with the Use Permit conditions of approval.

Mr. Kelley requested the following Conditions be revised as follows:

- Condition No. 5 be revised to reflect an event plan be submitted only one time.
- Condition No. 6 be revised to state compliance be reviewed by the Planning Commission at their discretion.
- Condition No. 7 be deleted in its entirety
- Condition No. 15 should not be applicable as Ordinance No. 833 is not intended to include tents
- Condition No. 24 was not warranted in 2 draft studies.

Mr. Kelley also requested rewording to identify impacts for the condition imposed and that temporary road signage on Fairview would suffice when attendance exceeds 200 persons.

Commissioner Bettencourt asked PWE Bliss why a turn lane was required if not warranted in the studies. PWE Bliss stated the studies were in draft and not final studies.

ACC Thompson suggested the Planning Commission receive a final traffic study report before making their decision. The Commission asked Mr. Kelley when the final report would be complete. Mr. Kelley indicated it could possibly be complete within one week. Again, ACC Thompson recommended the final study be reviewed by the Commission prior to a decision.

After extensive discussion pertaining to area traffic accidents, roadway speed and the draft traffic study, Commissioner Culler confirmed with staff that the applicant was not agreeable to the installation of a left-hand turn lane.

Commissioner Machado noted that the applicant had been out of compliance since the original approval of the project.

Commissioner DeVries asked if a condition could be included due to certain triggers such as temporary signage or speed limit posting.

PWE Bliss stated a final traffic study report for review would dictate the condition required. Commissioner Machado concurred that the final report should be waited for.

Kenneth Perez, 1505 Mimosa St, Hollister addressed stating he has an event planned on May 29th. Mr. Perez added he felt Mr. Leal was being treated unfairly and unrealistic conditions are putting families out of work.

Frank Leal, 300 Maranatha, Hollister; project applicant addressed the Commission. Mr. Leal stated that he was the bad guy and running an illegal business for the past 10 years. “When I moved into this town and under the old regime my stuff gets pushed to the back of line. The new regime comes in, I am the bad guy. I am sitting and the back of the room and watching all the public servants nod their heads every time they get Leal a little. Even the Fire Marshal that really has nothing to do with roads. Here is a public servant that calls the Fish and Game on me. I thought his job was safety and putting out fires. So were did get personal? Is it because I am young and successful? My planner (interrupted by point of order). I have been here many times and sat in the back of the room, I have quite a bit of a temper, I bite my tongue back there and say you know it is going to get better. It is not getting better. The turn lane that has brought all this up years ago was not warranted. We all knew it wasn’t warranted. I did not do and they left me alone and everything was fine and now the County slows down there are no permits, no one is filling applications, these guys are so busy, let’s go pick on Leal. Another draft report says it is not warranted. I am not paying anymore engineers. If the County wanted a turn lane why could I have saved the \$12,000 or \$14,000 and handed it to the County to build a turn lane. Why am I paying professionals to say it is not needed and Staff telling me it is needed? Why is the Planner that is supposed to be helping my project nodding her head every time someone is giving Leal the bull. This isn’t how this Country is built. This is ridiculous. I am jumping through hoops and there is nothing bad about my facility. (Chairman Scattini attempts to interrupt) You are trying to push this onto another night and I do not have time and do not have patience. I have tried this new amendment has been up here for a year. A week into it I hire an ADA compliant attorney, he comes out and gives me a list and two weeks later it is done. It goes to the County and supposedly they are busy. I do not see any construction going on, but supposedly they are busy. But the energy, you walk into the County Planning Department everyone has a frown on their face. Is life really that bad? Maybe everyone should look for different jobs. If you are really that miserable in your position to call Fish and Game out on me, maybe it is at a point were we all need to find new careers. Life is too short. This is at a personal level. Anyone in this room says it is not personal, they are not seeing it. (time-limit alarm sounds) There is my three minutes, thank you”.

Al Guerra, Hollister resident addressed the Commission stating the County was out to get Mr. Leal and insulted staff for the work they performed. Mr. Guerra also stated “that it is getting personal. Staff, I am sorry, is trying to substantiate what they wanted. They wanted a turn lane, two reports said they did not need one, now they make another report on their own to find out what the speed limit is there. I do not think that’s quite right and I think you guys are in charge of making sure this battle does not continue to go. It is not a business family community. The County Staff, I am sorry to get myself in a situation here, but they are not business friendly, they are slower every day. I realize that people die and you have to get off, but when you go to a movie theater and there is not someone taking your ticket it is closed, it is done, it is out of business. These people need to work more hours and you guys need to tell them that and they should not be making reports on Fairview Road at this point.

That John Smith realignment has been planned for twenty years, fifteen years, am I wrong? Art is out there doing studies on that portion of road. Why now? I think it is for the obvious. He wanted a turn lane and he is going to defend himself to the death. It is up to you guys to decide who is right and who is wrong. With the by-pass there is a lot less traffic on Fairview Road then there ever was. I do not know if you guys drive it, but I do. You have to use common sense, you have to keep people in business. As the other gentlemen said, I can match his talk, you have to get business going here. Better than a lot of other places and it is up to you guys to keep him in business. The nit picking is over with. I do not know what it is going to be, but that is my opinion”.

Phil Fortino, Hollister stated he felt the Leal Vineyard operations were good for the County and the applicant should not have to install a turn lane for occasional events. Mr. Fortino added that the condition was holding the applicant hostage.

Art Correa, 660 Lone Tree Road, Hollister stated he didn't feel fire sprinklers should be required for the tent of that size. Mr. Correa also stated a turn lane should not be required.

With no other speakers, Chair Scattini closed the Public Hearing

SP Knight advised the Commission that her job and the job the County was to adhere to and enforce all local, state and federal laws, rules and mandates. The requirements of the Conditions of Approval were not invented they were taken directly from laws, Ordinances and Codes.

Commissioner Machado stated the applicant agreed with the condition of a left hand turn lane originally and staff and the Commission were asking for compliance.

Commissioners Machado, DeVries and Bettencourt discussed the fact that staff is doing their job as required and some ability to alter or change a condition was that of the Commission.

After a lengthy discussion regarding the traffic study, sprinklers, compliance issues and the changing of conditions in the mitigated negative declaration, Commissioner Bettencourt moved to adopt the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program and approve Use Permit 789-99B along with findings and conditions of approval contained in this staff report with modifications to Conditions 5, 6 & 7 and removal of Conditions 15, 21 & 22. With a second by Commissioner Dan DeVries, the motion carried with a 3 to 2 vote. Commissioner's Machado and Culler voted **NO**. See Conditions of Approval below for changes.

CEQA Findings:

Finding 1: That the Initial Study/Mitigated Negative Declaration for UP 789-99B has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the San Benito County Implementing Procedures for the California Environmental Quality Act.

Evidence: *All provisions including both State and County environmental guidelines and policies for the preparation of an Initial Study have been followed. The environmental documents in the preparation of the Initial Study/Mitigated Negative Declaration are filed in the project record located at the San Benito County Planning Department in file number UP 789-99B.*

Finding 2: That the Planning Commission considered the Mitigated Negative Declaration together with all comments received from the public review process.

Evidence: The Initial Study and Mitigated Negative Declaration were presented to the Planning Commission at the April 7th, 2010 meeting; and all members of the public present at the meeting were invited to make comments. The Planning Commission considered the Mitigated Negative Declaration and all comments received at the meeting. The Planning Commission adopted the Mitigated Negative Declaration during the April 7, 2010 meeting. The Mitigated Negative Declaration evaluated an amended project description for the site.

Finding 3: The Mitigated Negative Declaration reflects the independent judgment of the Planning Commission.

Evidence: The Planning Department prepared the Initial Study and the Mitigated Negative Declaration. This report and the staff recommendations reflect the Planning Commission's independent evaluation of the project.

Finding 4: That the Planning Commission has found that there is no substantial evidence that the proposed project will have a significant effect on the environment.

Evidence: The Planning Commission considered all the evidence provided in the staff report along with attachments when adopting the Mitigated Negative Declaration on April 7, 2010. The Planning Commission determined that the Conditions of Approval included in the staff report would reduce the impacts of the proposed project to less than a significant level.

Use Permit Findings:

Finding 1: That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

Evidence: Section 25.09.022 (c) of the San Benito County Code lists Commercial Recreational Uses as a Conditional Use, which is subject to Use Permit review and approval. The project description proposed amendments to the previously approved winery events on-site, amendments to previously approved conditions, signage, operation, permanence of a tent structure and other items as described.

Finding 2: That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.

Evidence: The proposed use will have a less than significant impact to the surrounding area if the conditions of approval remain in compliance. Conditions are attached to the Use Permit and will ensure the ongoing operations of the project site as well as the assurance that the conditions will be evaluated on a yearly basis. Any changes to the proposed use would require an amendment to this application and further review and approval/denial by the Planning Commission.

CONDITIONS OF APPROVAL

Standard Conditions:

1. **Hold Harmless:** Upon written notice by the County, the permittee shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this Use Permit and any applicable proceedings. San Benito County reserves the right to prepare its own defense. [Planning]
2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **Compliance Documentation:** The applicant shall submit a summary response in writing to these Conditions of Approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
4. **Notice of Determination (Fish & Game Fees):** The applicant/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval for each project that requires a Negative Declaration. Department of Fish and Game fee (\$2,060.25 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]

Planning Conditions:

- ~~5. **Yearly Event Plans:** One month prior to the start of events for each year, the property owner shall submit five (5) copies of an events plan to the San Benito County Planning Department. The event plan shall include:
 - ~~a. Dates, times, and estimated attendees for each event that given year. This Plan can be updated quarterly and provided to the County Planning Department.~~
 - ~~b. Safety Measures for each event.~~
 - ~~c. Food/Services~~
 - ~~d. Signage/direction plan~~
 - ~~e. Lighting plan (outdoor event only)~~
 - ~~f. Security Plan (approved by the County Sheriff)~~
 - ~~g. Other requirements as determined by County staff (one month prior to submittal)~~**The applicant shall prepare a general event plan and security plan which shall be submitted for the approval of the Planning and Sheriffs Departments and shall be updated as determined necessary by the Planning Department upon any applicant changes. The event and security plan shall be followed by the applicant.**~~

6. **Yearly Permit Compliance Review:** ~~Each year, Planning Staff and other County staff (as necessary) shall conduct yearly site visits to ensure that all conditions of approval are being met and all approved plans and programs are being enforced. Site visits are subject to a fee per Ordinance 833.~~ **Permit compliance review is limited to yearly reviews or as deemed necessary by the Planning Commission.** [Planning]
7. **Security Plan:** ~~As part of the events plan (Condition No. 5) the owner/applicant shall submit a security plan to the County Sheriff's Office for the Sheriff Office's approval. A copy of the approved security plan shall also be submitted to the Planning Department for record purposes. The security plan shall be followed and enforced during all events. Any criminal activity shall be grounds to revoke this use permit.~~
8. **Maximum Population:** The maximum occupation for any event shall be 225 persons. If more than one event occurs on the same day, the total maximum population will be 225 persons (based on traffic report). If the maximum population is exceeded the use permit will be taken to the Planning Commission for action or denial.

Mitigation Measures:

9. **Lighting:** The owner/applicant shall meet all the requirements set forth in Chapter 19.31 of the San Benito County Code, including but not limited to Section 19.31.006, Table 19.31.006(I) for commercial use class II lighting, Section 19.31.008 and Section 19.31.011. All lighting that exists on site shall comply with Chapter 19.31. Applicant shall submit the necessary items for review to the Planning Department. Applicant shall have them reviewed and approved by the Planning Director or his/her designated planner, and implement the measures within one (1) year of the approved Use Permit No. 789-99(B). If the plans as submitted are not approved, Applicant shall make any necessary revisions to obtain approval within the one year time period. Any future alterations to lighting on-site will require additional review and approval from the Planning Director. Failure to comply with these requirements will result in Code enforcement action, and possible revocation of the Use Permit. The Planning Director is not authorized to modify the lighting requirements to anything less stringent than the requirements as currently existing in the County Code. [MM #1]
10. **Cultural Resources:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers and human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
 1. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 2. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals
 3. Notify the sheriff-coroner of the discovery if human and-or questionable remains have been discovered. The Planning Department Director shall also be notified.

Subject to the legal process, grant all duly authorized representatives of the coroner and the Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code. [MM #2]

- 12. Code Compliance:** Prior to use of the barrel room for events, the owner/applicant shall be required to complete the following:
- a. The barrel room will comply with all state, federal and local laws, rules and regulations.
 - b. Building permits shall be submitted for the barrel room re-classification.
 - c. Safety measures for the barrel room shall be reviewed, approved, implemented, inspected and signed-off.
 - d. Review, approval, inspection and final sign-off will be obtained by the County Fire Marshal and the County Building Official.

The owner/applicant shall retrofit all buildings submitted for a new building permit if determined necessary by the Building Official and supported by adopted code(s). [MM #3]

- 13. Noise:** The following decibel levels shall apply for this property at the respective times – 7am to 7pm the decibel levels shall not exceed 65. From 7pm to 10pm the decibel levels shall not exceed 55. From 10pm to 7am the decibel levels shall not exceed 45. Decibel levels shall be measured at the property boundaries. [MM #4]
- 14. Condition Compliance:** All previous conditions of approval and Mitigation Measures shall continue to be met, unless amended by the Planning Commission through a scheduled public hearing. [MM #5], with the exception of Conditions 7 and 12 which have been modified by this use permit.

County Fire:

- 15. Fire:** The project shall meet the standards set forth in the latest adopted editions of the 2007 California Fire Code, San Benito County Code Ordinances 822 and 823, Public resources Codes 4290 and 4291 and all other related codes that apply to a project of this type and size. **As modified to take out the requirement that the applicant takes the tent down or sprinkler the tent, as removed as conditions of approval.**

Building:

- 16. Building Compliance:** The following items are outstanding and shall be completed:
- a. Building permit for tent and surrounding buildings shall be obtained prior to holding any events in these spaces. If the existing tent can not meet all code requirements, it shall be removed. Any new tent structure shall obtain an approved Building Permit prior to installation.
 - b. Building permits for all plumbing and electrical in tent event area shall be obtained prior to holding any events in this area.
 - c. Owner/Applicant shall meet accessibility requirements for the entire site.
 - d. Owner/Applicant shall comply with occupancy requirements for the barrel room before any events are held there.

Environmental Health:

- 17. Food Service:** For events open to the public, a food service operation permit shall be obtained by the Department of Environmental Health. Applications to obtain a food service operation permit must be submitted at least two weeks prior to the public event.
- 18. Food Operations:** Only barbeque foods are approved to be prepared on site; a three compartment sink is available for washing barbeque utensils. All other eating, drinking, cooking and food holding utensils shall be transported away from the area for cleaning and sanitizing. All wastewater shall be taken off site and disposed to an approved facility and not hooked up or otherwise disposed of into the onsite sewage disposal system.
- 19. Private Events:** All private events held onsite shall comply with Condition 18, but will not require a permit from Environmental Health.
- 20. Portable Kitchen:** Prior to use of a portable kitchen on-site, the applicant shall submit final plans and information regarding the portable kitchen to the Environmental Health Department for review and approval. The final approved plans and conditions shall be submitted to the Planning Department for incorporation into the project file.

Public Works:

- 21. Final Traffic Report:** ~~Prior to any events occurring on site, a final traffic report shall be prepared and submitted to the Planning and Public Works Departments. The Final Traffic Report shall include the following:~~
 - ~~a. **Adjustment and clarification of assumption(s):** Assumptions based on events are not clear. For example, scheduled weddings that have a specific start time would not have more than 50 percent of attendees arriving during peak traffic hours.~~
 - ~~b. **Adjustment and clarification of events schedule:** The annual daily traffic shall be adjusted to reflect annual totals occur over only 130 days, when events are occurring.~~
 - ~~c. **Traffic Infusion on Residential Environments index:** description is covered within Appendix D (not E) and seems so suggest that even with (the potentially to be adjusted peak hour trips used and Left Turn Warrants for a 50 MPH Design Speed), the cited TIRE of 2.1 weekday — 2.7 weekend would be significantly above the 1.0-2.0 associated with a cul-de-sac street with 2-15 homes. Although NOT into the 3.0 plus range associated with a “2 lane collector to arterial road”, this index value appears to fall well into the “2 lane minor (through) street” category. Please clarify and provide correct assumptions within the final traffic report.~~
 - ~~d. **Warrants studies provided using 50 MPH design speed:** The section of Fairview Road, where this project is being considered is within a 55 MPH allowable operating speed. To be consistent with Caltrans practices, a higher speed shall be used. These corrections will be made in the final traffic report.~~

~~22. Road Requirements: Applicant shall furnish and install within one year the following improvements:~~

- ~~a. Left turn channelization improvements to Caltrans Standards on Fairview Road, and,~~
- ~~b. Provide 5 feet class II aggregate base shoulder along the extent of the required Channelization improvement on both sides of Fairview Rd~~

~~Unless, the final traffic report, as approved by the Public Works Department, indicates that the existing plus project traffic conditions do not warrant such improvements.~~

23. Encroachment Permit: Pursuant to § 19.27.004 of the San Benito County Code, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County Right-of-Way prior to commencement of any improvements associated with this project.

24. Parking: All parking areas shall be designated only within the approved site plan for Use Permit No. 789-99B.

DoP Henriques noted for the record, the Commission decision was final unless appealed within 10 days to the Board of Supervisors.

(NOTE: An Appeal was filed with the Clerk of the Board on Monday 4-19-10 for Use Permit No. 789-99B by William Lee)

At 9:39 PM, Commissioner Machado moved to continue beyond the 9:00 PM time limit for new agenda items to be heard. Commissioner DeVries offered a second to the motion which passed unanimously. Chair Scattini called for Agenda Item No. 8.

8. Consider **Resolution No. 2010-04** to recommend Amendment of Sections 23.01.004, 23.15.011, 23.25.001 and 23.25.007 of the San Benito County Code. Applicant: San Benito County Location: San Benito County (county-wide). Request: Amendment to the San Benito County Code, Subdivision Ordinance to modify the current requirements relating to County Service Areas in new subdivisions, and to establish future requirements for subdividers. Environmental Review: Staff has made the determination that the recommended changes do not constitute a project as defined by CEQA. Recommendation: Staff recommends that the Planning Commission adopt a Resolution No. 2009-04 recommending that the Board of Supervisors approve amendments to Sections 23.01.004, 23.15.011, 23.25.001 and 23.25.007 of the San Benito County Code.

PLANNER: *Lissette Knight* (lknight@cosb.us)

SP Knight presented her staff report to the Commission explaining the Resolution if approved would be considered by the Board of Supervisors on April 27, 2010.

The Commission had no questions for staff. Chair Scattini opened and closed the Public Hearing as no one wished to address the Commission.

Commissioner DeVries moved to adopt Resolution No. 2010-04, Commissioner Culler offered a second to the motion which passed unanimously.

Due to the lateness (9:41 PM), Agenda Items No. 9, 10, 11 and 12 were continued to the Regular meeting to be held on April 21, 2010 at 6:00 PM.

9. **Housing Element Update Workshop** – Review of amendments to the draft Housing Element (General Plan Amendment 09-43) in response to HCD comments in preparation of the April 21 public hearing. *PLANNER: Michael Kelly (mkelly@cosb.us)*
10. DRAFT Habitat Conservation Plan Feasibility Report / Mitigation Bank Options
PLANNER: Laura Hall (lhall@cosb.us) (continued from 3-17-10)
11. Existing & Proposed County Commercial Zones
PLANNER: Lissette Knight (lknight@cosb.us)
12. Commissioner Announcements/Reports/Discussions

ADJOURNMENT

Commissioner DeVries moved to adjourn, Commissioner Machado offered a second to the motion, the meeting was adjourned at 9:43 PM.

*Minutes prepared jointly by:
Trish Vieira-Maderis & Janet Somavia*

*Reviewed by:
Lissette Knight, Senior Planner*